IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5758 OF 2005

Ms.Amisha @ Bobby @ Saaniya Shakil Khan ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri A.P.Mundargi i/by M/s.Rajeev Sawant & Associates
for the Applicant.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 20th Sept., 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the learned A.P.P. for the State.

2. The Applicant who is a woman was arrested on 10th August 12005 in connection with offence registered under sections 3, 4, 5, 7(1) (B) of the Prevention of Immoral Traffic Act, 1956. The learned Counsel appearing for the Applicant submitted that after the arrest of the Applicant, initially the Police custody remand was granted and after completion of police custody remand, it is not necessary to continue the detention. He submitted that though the Medical Officer has opined that the age of the rescued girl on the relevant date was less than 18 years, but in fact, the age of the said girl as reflected in passport is 27 years. He submitted that even considering the assertions made in the remand

application, no case is made out for continuing the custody of the Applicant. He stated that if the Applicant is enlarged on bail, the Applicant proposes to stay at a place at Malegaon, District Nashik and the Applicant will not enter the city of Mumbai till the conclusion of trial.

3. The learned A.P.P. submitted that a clear case of commission of offence under the PITA Act is made out against the Applicant. He submitted that considering the material on record and the antecedents of the Applicant, no case is made out for enlarging the Applicant on bail.

4. On the last date when the learned Counsel for the Applicant made a statement that the Applicant proposes to reside as a paying guest with one Mukesh Kawale residing at Malegaon, District Nashik, I directed the Investigating Officer to verify the address given by the learned Counsel for the Applicant. After the verification of the address, the Investigating Officer has submitted a report dated 20th September 2005 stating therein that one Shri Mukesh Kawale is residing at Shukrawar Ward, House No.1, Panch Kandil, Kapse Lane, Malegaon, Dist.Nashik, and the said house stands in the name of his grand father. It is stated in the report that Mukesh Kawale stated that he is willing to accommodate the Applicant as a paying guest.

5. I have considered the submissions. The Applicant who is stated to be aged 21 years is in custody for last more than 5 weeks. The Police custody remand was granted in favour of the prosecution. Considering the material on record and considering the fact that the Applicant has offered to stay away from Mumbai and Thane Districts, a case is made out for enlarging the Applicant on bail subject to stringent conditions.

6. In view of the above, the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with L.A.C.No.00 of 2005 (L.A.C.No.1419 of 2005) of Vakola Police Station, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties.

(ii) If the Applicant furnishes cash surety of Rs.15,000/- time of 10 days will be granted to the Applicant to furnish surety in accordance with this order.

(iii) The bail is granted subject to condition that till completion of trial, the Applicant will not enter Mumbai and Thane Districts, except for the purpose of attending the dates fixed in the trial

and will continue to stay in the premises of Shri Mukesh Kawale, at Shukrawar Ward, House No.1, Panch Kandil, Kapse Lane, Malegaon, Dist.Nashik. The Applicant will report to the concerned Police Station at Malegaon once in a fortnight till conclusion of trial.

(iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

Judge.